

COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

SPECIAL MEETING

MARCH 1, 2005

PRESENT: Acevedo, Benich, Escobar, Koepp-Baker, Lyle, Mueller, Weston

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson

Chair Weston called the meeting to order at 7:10 p.m., asking Andrew Martinez to lead the flag salute.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Weston opened the public hearing.

With no one in the audience indicating a wish to speak to the motion, the public hearing was closed.

NEW BUSINESS:

1) FINAL
DISTRIBUTION
OF THE RDCS
(MEASURE "C")
BUILDING
ALLOTMENTS
FOR FY 2006-2007
AND FY 2007-2008
COMPETITIONS

PM Rowe presented the Staff report, advising that the eight appeals to the recommendations made by the Commissioners had been heard by the City Council at the meeting on February 23, 2005 with the following outcomes in the various categories:

- Orderly and Contiguous: the E. Dunne Dempsey and Barrett-Odishoo projects are to be considered as on-going projects; each received an additional point in the category
- <u>Schools</u>: Central High School was declared a public school, with the San Pedro-Alcini project awarded two points in this category. Consequently, the Planning Staff reviewed and adjusted other project scores in this category.
- Landscaping: (Appeals basis: Planning Staff had determined that the requirement of commitment to plant two street trees per lot did not apply to 40-foot wide lots because of the required spacing for the trees.) Council Members indicated importance of consistency with prior competition scoring and awarded an additional point in this category. As a result, the Planning

Staff evaluated and amended other project scores in this grouping.

• <u>Natural and Environmental</u>: this issue was resultant from the question of preserving a significant oak tree on a project site. Council Members awarded one point to the Syncon project, with Staff determining that the Cochrane-Borello project would warrant an additional point in this category as well.

PM Rowe then turned to the number and term of allotments, providing information of the basis for the allotments, based on the requirements of Measure C and the population estimates from the CA Department of Finance. PM Rowe gave an overview of the various competitions and the obligations of allocations for each. He also spoke on the numbers of units potentially available in the categories for the current fiscal year, as well as the next two fiscal years. PM Rowe indicated the recommended distribution for FY 2006 – 2007 in the following categories:

Vertical Mixed Use - 10 unallocated Micro - 10 Small projects - 13 Open Market - 210 Downtown Open Market - 7

Total: 250

PM Rowe pointed out that the original recommendation of the Commissioners had been to establish and hold the threshold for award at 182 points. However, he advised the Commissioners that in view of the actions by the Council Members, there was need to discuss and adjust/approve the recommended distribution list and consequently, that threshold might require adjustment.

Commissioner Koepp-Baker announced she would abstain from discussion/voting because she has not been part of the full discussion hearings.

Commissioner Benich informed that in the interest of public disclosure, he had received numerous contacts regarding the Diana-Chan application. Other Commissioners also acknowledged contacts to them from that project, as well as the Syncon project.

Chair Weston said there appeared to be some confusion about the threshold of 182 points on the Open Market category. He said the Commissioners were not obligated to retain that number, but could follow Planning Staff's recommendation(s) while retaining the feasibility of 'dipping' into the allocations for the third year.

Commissioner Mueller suggests discussion regarding going below the original Staff recommendation of 182, as that might reflect on adjustments to a number of the projects.

Commissioner Acevedo said he was opposed to having that discussion 'up front' and indicated his thought was that people in the audience were aware of further discussion to be engaged by the Commissioners. "I don't think we should discuss this before we hear the public comments," Commissioner Acevedo remarked.

Chair Weston indicated that the matter would be addressed at this time because of the importance of the issue. Commissioner Mueller urged discussion, saying, "If we do decide to go below 182 points, then the applications may or may not receive allocations,

which could impact the need for having to reopen the hearings later in this meeting, as the allocations may be shifted around." He noted the projects that might be affected by a decision to lower the threshold to 181.

CHAIR WESTON CONDUCTED A 'STRAW POLL' TO DETERMINE THOSE COMMISSIONERS WILLING TO DISCUSS AND OFFER POTENTIAL SUPPORT FOR LOWERING THE THRESHOLD TO 181 POINTS FOR ALLOCATION AWARD. THE VOTE WAS UNANIMOUSLY AFFIRMATIVE FOR THE ACTION BY THE SIX COMMISSIONERS VOTING; COMMISSIONER KOEPP-BAKER ABSTAINED.

Discussion continued with the following topics being raised:

- one point is a small difference, but can change the distribution, and projects can be started
- the separation of the range of 'high' points and the next set presents strong arguments for a threshold of 181
- the Central High School issue
- Staff has looked at various scenarios; the Commissioners need to look at the individual projects and how each would be impacted if the threshold were lowered down to 181
- discussion of the Open Market competition

PM Rowe indicated the prospective redistribution if there was a threshold adjustment from 182 to 181:

- <u>Vertical Mixed Use</u> –no current awards; allocations to be distributed later this year.
- <u>Micro</u> the current distribution will factor into the Open Market distribution; those not allocated for FY 07-08 could be moved up to receive 13 in FY06-07.
- There could be a change in <u>Open Market</u> for FY 07-08; if the allocations were 'held off' in the current year, then there could be an award of an additional 13 projects each for FY 07-08 and FY 08-09, which might make it easier for developers to start the projects. PM Rowe explained that if the allocations in the first year did not warrant installation of the infrastructure, waiting until the second year in projects, such as the Odishoo and Dempsey projects, would make sense.

PM Rowe advised that overall if the point threshold were lowered, there would not probably be a huge change, but would possibly move up the Giovanni and Vierra projects with more allocations in the third year.

Chair Weston asked if some of the allocations were put over to the second year, would there be any prohibition for getting started then going on to being finished? No, PM Rowe responded, then explained that there would only be a difference in having the unallocated portion be up for the award in the third year. The Thrust project was cited as an example, with that project having been included originally in the 'recommended list', but not on the list. Chair Weston continued with the discussion of the Thrust project, determining the number required for completion of the planned project and how the allocations could be 'played out' in the interim and for the third year.

PM Rowe turned again to the Staff report which described the 'appeal table' in Exhibit

B, whereupon the previous scores were listed as 'strike outs' then the current adjustments presented. PM Rowe called attention to the 'new' scores that had been recalculated following the appeals. At the Commissioners' request, PM Rowe presented several scenarios of the point adjustments, using the following projects for examples: Ginger, Murray, Diana-Chan, Coyote Estates, and Syncon. PM Rowe further advised, responding to questions from the Commissioners, that the allocations must be awarded at this meeting, as that is a requirement of Measure C. He was also asked to explain the three prepared resolutions for the benefit of those present.

PM Rowe then advised that one provision of Measure C is an allowance for the Vertical Mixed Use allocations to be rolled over for one year. He said a concern was that the balance of the allocations for FY 06-07 had a deadline of this meeting for awarding and if the action were not completed this night, there would be none for FY 06-07. PM Rowe responded to a question from Chair Weston by stating, "If the Commissioners want to make revisions tonight, it would be possible at their direction, but those variations must be so stated at this meeting.

Chair Weston announced that the Commissioners would first address the Open Market competition, and then public comments would be received, with the resolutions being considered thereafter.

Commissioner Mueller, answering a question from Chair Weston, explained that the City Council has asked the Commission - through the Subcommittee - to look at ways to deal with issues such as safe walking routes to schools, the Central High question, two trees per lot, etc.

Commissioner Benich remarked that for future competitions, the Subcommittee could change the point award system.

Again responding to Chair Weston, PM Rowe advised that the only item before the Commissioners during the meeting of this date was to award allocations. He noted the distribution of units could be discussed as the Commissioners deemed appropriate.

Chair Weston opened the public hearing.

Craig Miott, 2532 Santa Clara Ave, #175, Alameda, addressed the Commissioners as the representative of the Syncon development. Mr. Miott distributed a letter of support from the Higashi Family, current owners of the property planned for the development. Mr. Miott spoke briefly on the distribution of allocations, and indicated his group would be happy to accept the alternative suggested in the Staff report. He continued by saying that the project had scored 181.5; therefore, urging the revised threshold which had been the subject of discussion. Mr. Miott urged Commissioners to consider the historical home on the site, saying, "We will create a project that features the pioneer home as a showcase." Mr. Miott concluded by telling the Commissioners the Syncon developers would be willing to take five allocations for the year competition.

Commissioner Mueller asked Mr. Miott if the developer could actually start a project with five allocations as other developers had indicated this was not physically viable. Mr. Miott said that because of other construction the developer had in close proximity, "It should be OK."

John Telfer, 17045 Monterey Road, addressed the Commissioners as a representative of the Hu and Dempsey projects. Mr. Telfer agreed with previous discussion the Commissioners had about the 'big gap' between the top group and the next set of scores. Commissioners discussed with Mr. Telfer the total number of allocations requested and how those might be awarded for the construction to best utilize the required installation of infrastructure

Commissioner Lyle said one possibility would be for the projects to go into FY 08-09, noting that if not all the downtown allocations are given out, those allocations can be moved *outside the downtown area* to accommodate other projects. Discussion ensued with Commissioner Mueller addressing the fact that the affordable unit category has 50 allotments for FY 07-08 *instead of the 60 units discussed previously*.

Mr. Telfer advised that the Hu presented no problem and could be completed in the third year. He said, "The applicant has a problem with receiving only five allocations in the 'middle year'. This is their biggest concern and they would like a better solution." Commissioner Mueller observed that other developers have solved that problem. Mr. Telfer persisted, saying it would be 'very difficult'.

Dick Oliver, 275 Saratoga Ave, #105, Santa Clara, responding to Commissioner Mueller's reference to solving the problem with working with a limited number of allocations during a given year, told the Commissioners, "It is difficult with small numbers; it is not easy to do and there has to be a lot of juggling around."

Mr. Oliver said he had been called by Planning Staff regarding the revised scoring and the fact that the Lupine project would be receiving six units in FY 06-07 and telling Commissioners he was 'OK' with that as long as he could receive allocations in FY 08-09 to complete *the Lupine project*. Mr. Oliver reminded that the Mission Ranch project has another 125 units needed and that the project had first been allocated units in 1994. "We will get the final allocations in FY 2015-16, so it will have been a 22-year project on finalization. That's really been stretching for us."

Mr. Oliver further said he was requesting that the 30-unit maximum allocation restriction of Measure P (and subsequently carried to Measure C) which has 'been on the books for some time' be reconsidered for possible waiving for Mission Ranch of that requirement in the next competition, as he would like to have it completed. Mr. Oliver urged that, if in FY 07-08 any excess units were to become available, those be allocated to the Mission Ranch project. Commissioner Mueller expressed concern that Mission Ranch consistently is one of the highest scoring applications, but because of the restrictions it continues to get15 units per year.

Commissioner Lyle remarked that for FY 08-09 there should be some number of unallocated units. "If we maintain the current status, the highest scoring projects going forward should probably get additional allocations."

Commissioners discussed with Mr. Oliver his request to look at FY 07-08 for waiving the 30 units restriction, and the fact that he is asking for continuation points. Commissioner Mueller reiterated, "The highest scoring applications may not be getting that many allocations."

Rocke Garcia, 1000 Old Quarry Road, San Jose, said the Glenrock-Tilton project would

not be completed with this set of allocations, as he has acquired other properties. Mr. Garcia said the reason he had asked for 15 allocations in each of two years was that 'we still owe units back to the Housing Department for BMRs. PM Rowe explained that basically what Mr. Garcia faced is that in FY 08-09 having an allocation dedicated for BMR designation and so he would actually need 14 physical allocations instead of 15. The BMR, he said, would be going into South County Housing.

Mr. Garcia referenced five units that he explained would undergo the Micro competition process.

Jerry Bennett, 6192 Dunne Ave, spoke to the Commissioners as a representative of the Diana-Chan application. Mr. Bennett said that while the City does a good job of handling growth there was some confusion as to how Measure C was applied to the project. He reminded that this application has been submitted five times with progressively positive results each time it has undergone revision.

Maureen Upton, 950 Tennant Station, also a representative of the Diana-Chan application, spoke on the commitment made to the City in 1998 when the application had first been submitted. Ms. Upton reminded that in the past the application has 'gotten superior ratings', adding, "We know this is the opportunity for progressing. If we are runners up again this year, there will be little chance for the project in the future." Ms. Upton highlighted the total support of the two families (owners of the property) and spoke on the project adding to the master plan infill, which she said is what the City wants. Ms. Upton asked for allocations in FY 06-07, FY 07-08, and FY 08-09. She said the application deserves to receive allocations based on the past and the changes and improvements through the years to the applications.

The Commissioners discussed with Ms. Upton a series of potential scenarios for allocation award spanning the upcoming three fiscal years.

Janet Martinez, 1650 Diana Ave., also representing the Diana-Chan application, thanked the Commissioners for considerations through the years. Ms. Martinez give emphasis to the fact that they would accept starting the project in FY 07-08, but would much prefer FY 06-07. "We could help with a new beginning for the City," she declared.

Scott Murray, 80 E. Main Ave., #3, asked the Commissioners to look not only at the threshold for the Open Market projects, but the Micro projects as well. Mr. Murray addressed the Rose Lane application, saying that after the appeals at the City Council, this project had been 'bumped' and so was not on the list. Mr. Murray said it had been his understanding that action had not been permitted in the past and asked for reconsideration of the matter.

PM Rowe provided clarification of the Micro scores by calling attention to Exhibit B where the score sheet reflected the final score for Micros. The cut-off point had been established as 151 points, with this project being scored for a total of 150.5.

With no other persons present indicating a wish to speak to the matter, the public hearing was closed.

Regarding the Open Market competition, Commissioner Acevedo said it was time to

officially confirm 181 as the cut-off. Consequently, COMMISSIONERS ACEVEDO/MUELLER MOTIONED TO ESTABLISH THE THRESHOLD OF 181 POINTS FOR ALLOCATION DISTRIBUTION FOR THIS MEASURE C COMPETITION. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: KOEPP-BAKER; ABSENT: NONE.

The Commissioner then launched into lengthy discussion of several issues, including:

- tendency to agree with Staff's alternative recommendation
- uncertainty of 'making up' (adding) 10 allocations in FY 06-07
- probability of leaving some projects at the prior list/rank order even though the Central High School at the City Council discussion had elevated the total points
- difficulties in trying to start projects with 5-6 allocations
- how to resolve the BMR/Open space issues
- possible necessity of taking units from some applications to provide to others in order to have the 'numbers work'
- heightened concern about having to delve deeply in FY 08-09 allocations
- (perceived) change from a former emphasis to complete projects
- the separate multi-family set-aside (15 units reserved for this category)
- obligation for a 'fair amount' of infrastructure to get started
- consideration of the highest scoring new project
- numbers of units in proposed buildings within a development and how those units might be affected if changes were made. Chair Weston asked Jim Schilling, 1220 Lions Peak Lane, a representative of South Valley Developers, to address this matter.
- the fact that even though the majority of the Commissioners agreed with the Staff recommendations, there simply aren't enough allocations for variation of award
- the identified need and intensified concern of 'dipping into' FY 08-09 for using those allocations

The Commissioners then turned to the need to address the Micro category issue raised by Mr. Murray. It was noted that the project (Rose Lane) was deficient only by .5 point. PM Rowe advised that breakdown of the minimum number of points needed was reported in the Staff report, and reiterated if the Commissioners intended to vary the point/allocation/awards in any way, it must be achieved at this meeting.

There was discussion of possible sharing of allocations from others or redistribution.

Commissioner Lyle cautioned about the potential for new population figures and stating that the allocation numbers may be changed because of that.

The Commissioners engaged in discussion of various locations, and numbers of allocations and potential variations of methods of allocations. Also noted were the differing views of the applicants and City Council Members.

At the request of the Commissioners, PM Rowe explained the downtown set-aside.

Commissioner Lyle observed, "It appears that the City Council wants the *downtown* units done. They want 95 units for 2 years; however, they don't want to give up any of

the downtown units." Discussion resulted regarding the total number of units within each of the three upcoming years.

Commissioner Lyle led discussion regarding the Micro competition, with PM Rowe reminding there are five applications in that category this year.

Commissioner Mueller led discussion of the small project allocations for FY 07-08, which total 15.

Commissioner Lyle explained his view that the 'small category' set-aside is being reduced, but the micro category increased. "When you look at how the scoring and awards have been juggled and then consider: there are almost no smalls or micros in FY 08-09."

Mr. Garcia spoke again, saying he would rather see the projects as recommended now. "Further on down, the City can usually find more allotments," he stated

Chair Weston said he would be in favor of allotting for FY 07-08 for the Rose Lane application, 2 units then 3 in FY 08-09. Commissioners Acevedo, Benich, and Escobar agreed with that proposal, with Commissioners Lyle and Mueller dissenting.

Commissioner Mueller brought attention to the need to address how many allocations could be committed to the third year. He cautioned, "We don't want to over commit the allocations we're working off now." Commissioner Mueller spoke of the 2004 population numbers, then proceeded to discuss the upcoming three years growth. "We need to talk about how many units will be allocated in the Open Market competition; how many we can recommend with commitment to the City Council," as he noted there are, at present, ten Open Market allocations which are unallocated for the upcoming three-year cycle.

Commissioner Escobar asked if the City Council changes had an effect on the discussion and probable allocation award result. "We are trying to comply with what the City Council directed," Commissioner Escobar stated.

Chair Weston commented that there is precedence set for having on-going projects given allocations to complete a project. PM Rowe advised that when a project receive allocations, that project is elevated to 'on-going status'.

The Commissioners discussed the possibility of going into the FY 08-09 allocations for *only* on-going projects. Commissioner Mueller commented that projects started in FY 07-08 may need a commitment for FY 08-09 allocations 'to really get going'. Discussion continued of potential reallocation and what allocations would be left over [56]. Commissioner Mueller said he was concerned that: "We are saying this is a 3-year competition, and the City Council, even though we're all in a box, may balk at our recommendations."

PM Rowe advised that going into the third year of the competition to complete projects or keep projects viable, is typical of the way it has been done in the past. He further advised that if the City goes into the third year (FY 008-09) to make the allocation award, Staff would not foresee a huge problem, but cautioned there will be a need to

look closely at the South Valley Developers project, as that development was so configured for the units that a lessening of allocations could well be detrimental to completion.

Commissioner Lyle said the disadvantage of cutting into FY 08-09 allocations could be the lack of competition in FY 07-08 when 55 units are available. "If we cut back too closely, we may not be able to move the 08/09 units to FY 07-08, and three (3) allocations in FY 2008-09. It is not possible to make new allocations in FY 07-08 from FY 06-07," he stated.

Commissioner Mueller expressed concern of making an over-commitment so that there might not be a competition in FY 08-09.

Commissioner Benich said he wasn't particularly bothered, nor concerned, with those unallocated allotments

Commissioner Lyle indicated the discussion had led to potential change from previous policy when allocations were given, at most, two years out, however, this would be three years out.

Commissioner Acevedo broached the subject of "The other product market out there which we will be dealing with later (vertical mixed use)."

Commissioner Escobar indicated the thought that it would be good to have 'some cushion' as this was working on an 'unanticipated set of circumstances'. It might be better to have an element of unallocated units at all times, he said.

Commissioner Mueller said typically the City has not dipped into the unallocated numbers. It was noted that the allocations for the Micro and smalls are almost totally gone now.

Discussion ensued regarding 'special cases'.

Chair Weston commented, "It appears that because of City Council direction, we're ending up where we don't want to be."

There was discussion of possibly holding the Affordable category at 50 or eliminating building permits being given outside the area identified for competition under the Ordinance.

Commissioner Mueller said the thought it would be better to stay at a minimum number of awards if the City will be going into the third year for competition award now.

COMMISSIONER ACEVEDO MOTIONED TO ACCEPT THE REVISED STAFF RECOMMENDATION TO THE ALTERNATIVE DISTRIBUTIONS LIST, INCLUDING FY 08-09, AND NOTING FOR THE RECORD THE FOLLOWING MODIFICATIONS:

FY 07-08

Micro: (add) MCC-04-09: Taylor-Murray 2 allocations
Small Projects: MC-04-17: San Pedro-Alcini € allocations 4

FY 08-09

Micro: MCC-04-09: Taylor-Murray € allocations 3 Small Projects: MC-04-17: San Pedro-Alcini € allocations 8

Open Market MP-02-03: Tilton-Glenrock/Shea 14- allocations 15

Unallocated 44 allocations 10

Total: (unchanged at) 250 allocations

COMMISSIONER BENICH SECONDED THE MOTION WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, WESTON; NOES: LYLE, MUELLER (both of whom continued to voice concern about the large number of allocations awarded to the detriment of the lessening number of reserve allocations); ABSTAIN: KOEPP-BAKER; ABSENT: NONE.

Based on the discussion and based on the immediately preceding vote, COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 05-15, ESTABLISHING RESIDENTIAL DEVELOPMENT CONTROL SYSTEM ALLOTMENTS FOR MICRO MEASURE C RESIDENTIAL PROJECTS FOR FISCAL YEARS 2006-07 AND 2007-08, INCLUDING THE ADDITION OF TWO (2) ALLOCATIONS TO MCC-04-09: TAYLOR-MURRAY IN FY 2007-08. COMMISSIONER BENICH SECONDED THE MOTION AND THREE (3) ALLOCATIONS IN FY 2008-09, NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS CONTAINED WITHIN THE RESOLUTION. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, WESTON; NOES: LYLE, MUELLER (having noted their continued concerns of a 'tight' number of allocations being left as available); ABSTAIN: KOEPP-BAKER; ABSENT: NONE.

COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 05-16, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, APPROVING THE DISTRIBUTION OF THE BUILDING ALLOTMENT IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM OPEN/MARKET SMALL PROJECT COMPETITION FOR THE FISCAL YEARS 2006-07, with 6 allocations for MC-04-27: Wright-Dividend AND 2007-08, with the following modifications:

MC-04-17: San Pedro-Alcini 4 allocations MC-04-27: Wright-Dividend 9 allocations

AND RECOMMENDING A THIRD YEAR ALLOCATION FOR FISCAL YEAR 2008-09 (MC-04-17: San Pedro – Alcini 8 allocations). COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: ACEVEDO, BENICH, ESCOBAR, *LYLE*, *MUELLER*, WESTON; NOES: ABSTAIN: KOEPP-BAKER; ABSENT: NONE.

COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 05-17, APPROVING THE DISTRIBUTION OF THE BUILDING ALLOTMENTS IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM OPEN/MARKET COMPETITION FOR THE FISCAL YEARS 2006-2007 AND 2007-2008 AND RECOMMENDING A THIRD YEAR ALLOCATION FOR FISCAL YEAR 2008-2009, TOGETHER WITH THE INCLUSION OF THE ODISHOO, CHAN AND SYNCON PROJECTS, AND INCLUDING THE FINDINGS AND CONDITIONS

OF THE MOTION. COMMISSIONER ESCOBAR PROVIDED THE SECOND TO THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, WESTON; NOES: LYLE, MUELLER, (both explaining that going into a third year for allocations was of deep concern); ABSTAIN: KOEPP-BAKER; ABSENT: NONE.

ADJOURNMENT:

With no further business to come before the Commissioners at this meeting, Chair

Weston adjourned the meeting at 8:59 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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